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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,798

01/31/2006

Edward F. Spellman

ES-101

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37053

7590

10/06/2008

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EXAMINER

WUJCIAK, ALFRED J

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

10/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/566,798	Applicant(s) SPELLMAN, EDWARD F.	
	Examiner Alfred Joseph Wujciak III	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,6-9,12,13,17-20,22-27 and 42-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7,9,12 and 13 is/are allowed.
- 6) ☒ Claim(s) 1,4,6,18-20,22-27 and 42-45 is/are rejected.
- 7) ☒ Claim(s) 8 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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This is the final Office Action for the serial number 10/566,798, VEHICLE SEAT MOUNT EQUIPMENT RACK, filed on 1/31/06.

Election/Restrictions

Applicant's election of group I in the reply filed on 12/21/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19, 22 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19, line 3, "the shelf" is now positively cited which is indefinite because it is not positively cited in independent claim 1. This is combination/subcombination problem.

Claim 22, line 3, "the shelf" is now positively cited which is indefinite because it is not positively cited in independent claim 1. This is combination/subcombination problem.

Claim 24, line 3, "the shelf" is now being positively cited which is indefinite because it is not positively cited in independent claim 1. This is combination/subcombination problem.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

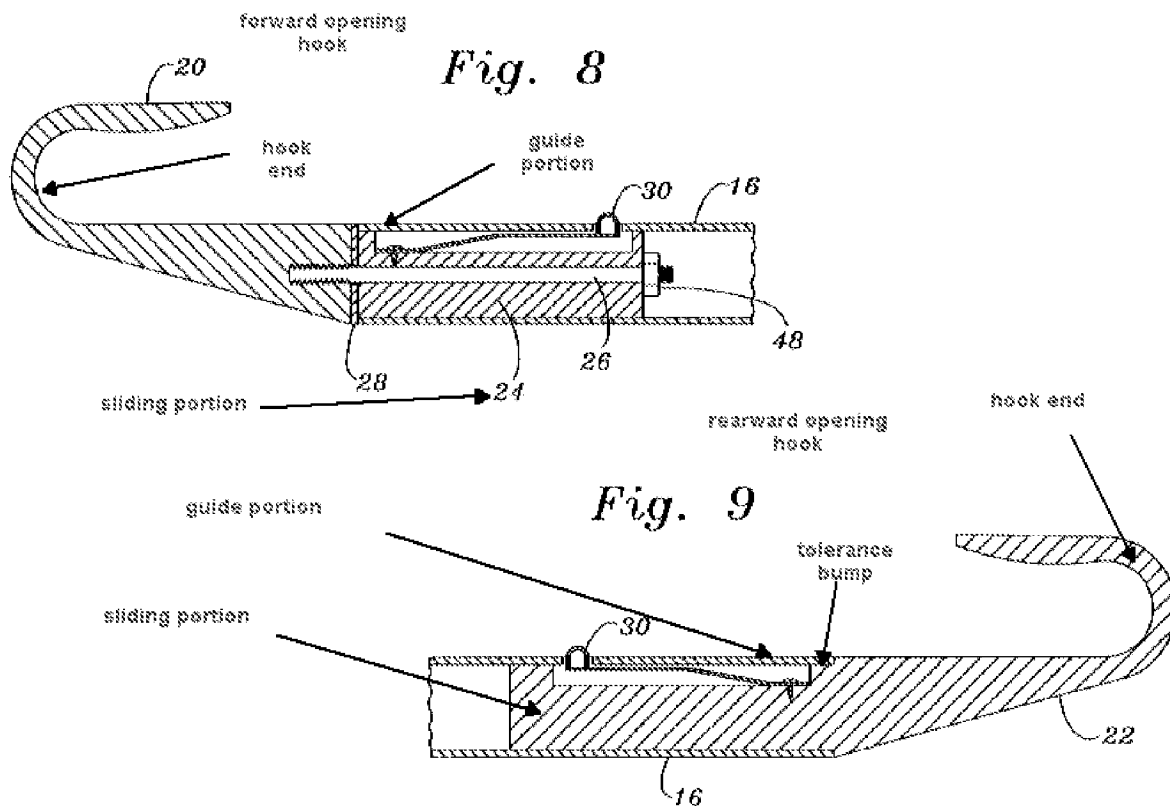
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 18, 22 and 43-45 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 6,327,993 to Richens Jr.

Richens, Jr. teaches a rack comprising a hook bar (16) having a guide portion and at least one sliding portion (24) telescopically engaged with the guide portion. The hook bar assembly is attached to the shelf (10). Two end hooks on distal longitudinally outward ends of the hook bar assembly is configured for hooking on posts. The rack includes a spring (30) connected for biasing the two end hooks with respect to each other. The shelf comprises a softened (synthetic woven fabric, column 4, line 1). The end hook is biased longitudinally outward/inward and opens longitudinally outward/inward.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6, 24-27 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richens, Jr.

Richens, Jr. teaches the end hook has a forward opening hook and a rearward opening hook having inside wall but fails to teach plurality of inside walls including a longitudinally

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straight shank wall that extends longitudinally outward and a straight finger wall that extends from the longitudinally outward end of the shank wall and that is angled forward/rearward and longitudinally inward relative to the shank wall. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the end hook with plurality of inside walls to reduce weight of the rack to increase the life of post's strength for suspending the rack thereon.

Regarding to claims 24-27, Richens, Jr. teaches the rack comprising an audio transmitter (small digital music player, column 2, line 65) but fails to teach audio transmitter is being connected to audio cord and audio plug, furthermore Richens, Jr. fails to teach power jack module having power conversion/conditioning circuitry and power cord. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have included audio cord, audio plug, power cord and power jack module to Richens, Jr.'s audio transmitter to recharge the battery therein.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richens, Jr. in view of US Patent # 5,582,377 to Quesada.

Richens, Jr. teaches the hook but fails to teach the hook having compressible sleeve. Quesada teaches the hook being supported by compressible sleeve (24, 40). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Richen, Jr.'s hook with compressible sleeve as taught by Quesada to provide efficient in detaching the hook from the post.

Allowable Subject Matter

Claims 8 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 19-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 7, 9 and 12-13 are allowed.

Response to Arguments

Applicant's arguments filed 6/19/08 have been fully considered but they are not persuasive.

Regarding to 112 2nd paragraph rejection, the term "shelf" is not being positively cited in the preamble of claim 1. The "shelf" in claim 1, line 2 is not positive and it is considered function. If the applicant wishes to make "shelf" positively cited to overcome 112 rejection, claim 1, lines 1-2, "A vehicle equipment rack for removably holding equipment on a shelf" should be changed to ---A vehicle equipment rack removably holding equipment on a shelf---.

The applicant argues Richens Jr. fails to teach "spring connected for biasing the two end hooks with respect to each other." The examiner disagrees with the applicant because Richens Jr. teaches hooks being biased by springs (30). Once the hook is being adjusted by spring and the spring tab is in the position as shown in figures 8-9, the spring is biasing the hook. Therefore

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the hooks are being biased by the springs when the spring tabs are protruding from the hole of element 16.

The applicant states, "Richens Jr.'s element 24 is not the sliding portion of the telescoping assembly." The examiner disagrees with the applicant because prior to the spring tab being mounted in the hole of element 16, the element 24 has the ability to slide within the telescoping assembly. Element 24 is being swivel within the telescoping assembly prior the locking of spring tab in the hole, this action is also considered as sliding rotatable within the telescoping assembly.

The applicant argues "Regarding claim 18, the area of Fig. 9 Examiner identifies as a 'tolerance bump' does not 'extend between the guide portion and the sliding portion'". The examiner disagrees with the applicant because the diagram from figure 9 in the prior office action shows the tolerance bump is located in between the guide portion and the sliding portion.

The applicant states "Regarding claim 22, the claim 1 amendment that clearly defines directional references makes it clear that Perkins (Richens Jr.) Jr.'s 'rearward edge' would be one of the lateral, not longitudinal side of his apparatus." The examiner disagrees with the applicant because Richen Jr. teaches the shelf extending in longitudinal and lateral directions. Therefore Richen Jr. teaches the shelf Extends in the rearward edge.

The applicant argues Richen, Jr. does not teach audio transmitter attached to the shelf. The examiner disagrees with the applicant because the audio transmitter (cell phone as shown in figure 4) shows it is attached to the shelf. Element 12 which is attached to the shelf is considered as shelf.

The applicant states "Quesada does not disclose or teach a compressible sleeve that removably hooks on the same post (rod, wire, whatever) as the end hook (e.g., 16 in Figure 2) of the device, the sleeve being positioned next to the end hook on the post." Richen, Jr. teaches removable hooks from the same post but fails to teach the hooks being compressed by sleeve, Quesada teaches compressible sleeve, it is an obvious to have modified Richen, Jr. hook with compressible sleeve to provide efficient in adjusting the hooks within the post.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joey Wujciak whose telephone number is (571) 272-6827 or send

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e-mail to the examiner at Joey.Wujciak@uspto.gov. The fax machine telephone number for the Technology Center is (571) 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Primary examiner
A. Joseph Wujciak III
Art Unit 3632
9/29/08

/Alfred Joseph Wujciak III/
Primary Examiner, Art Unit 3632